

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

EDWARD J. MORROW AND SHERRI L.
MORROW,

Plaintiffs,

v.

UNITED STATES OF AMERICA,
Defendant.

No. CV-07-331-FVS

ORDER GRANTING MOTION TO
DISMISS

THIS MATTER comes before the Court based upon the defendant's motion to dismiss. The defendant is represented by W. Carl Hankla and Nathaniel B. Parker. The plaintiffs are representing themselves.

BACKGROUND

The Internal Revenue Service ("IRS") served a summons upon CitiMortgage, Inc., (hereinafter "CitiMortgage summons"). This summons seeks payroll information regarding Sherri Morrow. The IRS also served a summons upon Real Estate Services of Spokane, Inc. (d/b/a RE/MAX of Spokane) (hereinafter "RE/MAX summons"). This summons seeks payroll information regarding Edward Morrow. Upon learning of the summonses, the Morrows filed a pleading that is entitled "Petition to Quash Summons." In essence, they ask the Court to enjoin the IRS from using the summonses to obtain information about them. The IRS moves to dismiss their petition.

RULING

CitiMortgage Summons

CitiMortgage, Inc., is located in O'Fallon, Missouri. The Court lacks jurisdiction over a summons that is served outside the Eastern District of Washington. *Fortney v. United States*, 59 F.3d 117, 119 (9th Cir.1995) (jurisdiction "lies in the 'United States district

1 court for the district within which the person to be summoned resides
2 or is found'" (quoting 26 U.S.C. § 7609(h)(1))).

RE/MAX Summons

3 The Anti-Injunction Act ("the Act"), 26 U.S.C. § 7421(a),
4 narrowly limits actions to enjoin the assessment and collection of
5 taxes by the IRS. *Elias v. Connett*, 908 F.2d 521, 523 (9th Cir.1990).
6 A third-party summons falls within the scope of the Act. See *United*
7 *States v. First Family Mortgage Corp.*, 739 F.2d 1275, 1278 (CA7 1984).
8 There are several statutory exceptions and one judicial exception to
9 the Anti-Injunction Act. *Elias*, 908 F.2d at 523. However, none
10 applies. Thus, the Court lacks authority to enjoin the RE/MAX summons

IT IS HEREBY ORDERED:

11 The defendant's motion to dismiss (**Ct. Rec. 8**) is granted. The
12 plaintiffs' "Petition to Quash" is denied.

13 **IT IS SO ORDERED.** The District Court Executive is hereby
14 directed to file this order, furnish copies to the plaintiffs and to
15 counsel for the defendant, enter judgment accordingly, and close the
16 case.

DATED this 6th day of August, 2008.

17 s/ Fred Van Sickle
Fred Van Sickle
Senior United States District Judge